

31A-16-110 Enjoining violations -- Voting securities acquired in violation of law or rule.

- (1) Whenever it appears to the commissioner that any insurer or any director, officer, employee, or agent of an insurer has committed or is about to commit a violation of this chapter or any rule or order issued by the commissioner under this chapter, the commissioner may apply to the district court of the county in which the principal office of the insurer is located, or if the insurer has no principal office in this state, then to the Third District Court of Salt Lake County, for an order enjoining the insurer or a director, officer, employee, or agent of the insurer from the violation. The commissioner may also request other equitable relief which the nature of the case and the interest of the insurer's policyholders, creditors, and shareholders or the public require.
- (2) No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this chapter or any rule or order issued by the commissioner under this chapter, may be voted at any shareholders' meeting, or may be counted for quorum purposes. Any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though those securities were not issued and outstanding. However, no action taken at that shareholders' meeting is invalidated by the voting of those securities, unless the action would materially affect control of the insurer or unless the district court has ordered that voting invalidates the action. If an insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this chapter or any rule or order issued by the commissioner under this chapter, the insurer or the commissioner may apply to the Third District Court of Salt Lake County or to the district court for the county in which the insurer has its principal place of business, to enjoin any offer, request, invitation, or agreement of acquisition which is made in contravention of Section 31A-16-103 or any rule or order issued by the commissioner under this chapter to enjoin the voting of that acquired security. This court order may also void any vote of that security if the vote has already been cast at any meeting of shareholders, and the court may grant other equitable relief which the nature of the case and the interests of the insurer's policyholders, creditors, and shareholders or the public require.
- (3) Upon the application of the insurer or the commissioner, if a person has acquired or is proposing to acquire any voting securities in violation of this chapter or of any rule or order issued by the commissioner under this chapter, the Third District Court of Salt Lake County or the district court for the county in which the insurer has its principal place of business may, upon the notice which the court deems appropriate, seize or sequester any voting securities of the insurer owned directly or indirectly by that person, and issue orders with respect to that person and those securities which the court considers appropriate to effectuate the provisions of this chapter. For the purposes of this chapter, the situs of the ownership of the securities of domestic insurers is considered to be in this state.

Amended by Chapter 204, 1986 General Session